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Telehealth Highlights in CMS' Proposed Physician Fee Schedule

Earlier this month, CMS announced their [proposed rule](#), adding 3 new services that will be reimbursed: (1) Brief Communication Technology-based Service; (2) Remote Evaluation of Pre-Recorded Patient Information; and (3) Interprofessional Internet Consultations. Importantly, the proposed services are distinct from the present traditional telehealth reimbursement structure outlined in [section 1834\(m\) of the Social Security Act](#).

1. Brief Communication Technology-based Service^[1]

At the heart of this change is CMS' recognition that technological advances enable health care professionals to provide a broader range of services to patients. In particular, CMS proposed that virtual check-in visits be reimbursed when a professional evaluates the patient to determine whether a subsequent office visit is needed. Instead of bundling check-ins with the office visit, CMS proposed to pay separately for non-face-to-face check-ins with patients through communication technology. However, this proposal comes with restrictions and issues that will be the subject of public comment.^[2]

First, CMS is seeking comment on the types of communication technology that would be appropriate for virtual check-ins. With enough public support, this can open up the door for audio-only or enhanced video interactions. Second, the proposed rule restricts check-ins to established patients, where a valid patient-practitioner relationship is previously established because CMS believes the practitioner needs to have "basic knowledge of the patient's medical conditions and needs in order to perform this service." Commenters should consider whether this restriction would severely limit their ability to use this reimbursement code based on their patients' circumstances. Lastly, CMS's proposal would prevent *separate* reimbursement in 2 scenarios: (1) if a virtual

check-in appointment leads to a more in-depth evaluation and management (E/M) service within 24-hours of the appointment or the soonest available appointment; or (2) if an E/M service was provided within the prior 7 days of the virtual check-in. Commenters should consider whether the suggested timeframes are reasonable in light of patient needs and whether the “soonest available appointment” language warrants further definition to avoid confusion for providers.

2. Remote Evaluation of Pre-Recorded Patient Information^[3]

In addition to virtual check-ins, CMS has proposed adding a service code that reimburses for the remote professional evaluation of patient-transmitted information through “store and forward” or asynchronous technology. As discussed above, commenters should note that these services are not subject to the traditional Medicare telehealth restrictions in section 1834(m) of the Social Security Act, which requires real-time live-video communication. Similar to the virtual check-ins, these services will *not* be separately reimbursed if an E/M service was provided within the prior seven days of the service. CMS will also not separate reimbursed remote evaluation services that lead to an in-person E/M service with the *same* physician or professional. These restrictions are pivotal areas for commentary, as are concerns about whether remote evaluation should be limited to established patients or be open to new patients as well.

3. Interprofessional Internet Consultations^[4]

The last service code proposed by CMS reimburses consultations between practitioners in which a treating physician requests an opinion of a consulting physician with a specific expertise to assist in the patient’s treatment. The rationale behind this change encourages a more efficient care-management process by removing the need for a patient to have face-to-face contact with the consulting health care professional. CMS is seeking comments on how private payers implement controls and limitations to ensure appropriate billing and avoid overutilization.

CMS is currently looking for public comment on each of the new services outlined above, making this an opportune time for stakeholders to participate in the process. The public may [submit comments to CMS here](#) before the CMS issues its final rule in November. Frost Brown Todd LLC has a team of health care attorneys with knowledge of the telehealth industry who can offer guidance on how these changes are likely to impact your practice. For questions and assistance regarding the submitting comments, please feel free contact [Andrew Johnson](#) (513-651-6814 or aojohnson@fbtlaw.com) of [Frost Brown Todd's Healthcare Service Team](#). Frost Brown Todd LLC also provides public affairs services through its subsidiary, [CivicPoint](#), a full-service public affairs firm dedicated to helping influence policy and public opinion to achieve your goals.

[\[1\]](#) The proposed HCPCS code GVC11 would be described as a "...virtual check-in, by a physician or other qualified health care professional who can report evaluation and management ('E/M') services, provided to an established patient, not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion."

[\[2\]](#) In addition to the issues specified above, CMS is also looking for comments on (1) the timeframes under which this service would be separately billable compared to when it would be bundled; (2) a frequency limitation on the use of this code by the same practitioner with the same patient; and (3) how clinicians could best document the medical necessity of this service, consistent with existing documentation requirements.

[\[3\]](#) The proposed HCPCS code GRAS1 would be described as "[r]emote evaluation of recorded video and/or images submitted by the patient (e.g., store and forward), including interpretation with verbal follow-up with the patient within 24 business hours, not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment."

[4] The proposed CPT codes 994X6, 994X0, 99446, 99447, 99448, and 99449 would be described as an “assessment and management services conducted through telephone, internet, or electronic health record consultations furnished when a patient’s treating physician or other qualified healthcare professional requests the opinion and/or treatment advice of a consulting physician or qualified healthcare professional with specific specialty expertise to assist with the diagnosis and/or management of the patient’s problem without the need for the patient’s face-to-face contact with the consulting physician or qualified healthcare professional.”

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